IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 8652 of 2007()

PETITIONER:

M/S.UNITED TIMBER CORPORATION,
PETTA, MUVATTUPUZHA, ERNAKULAM DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER NOUSHAD.

BY ADV. SRI.BOBBY JOHN
SRI.P.N.DAMODARAN NAMBOODIRI

RESPONDENTS:
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1. **THE INTELLIGENCE OFFICER (IB),**
   O/O. THE INSPECTING ASSISTANT COMMISSIONER
   (INT), COMMERCIAL TAXES, KOLLAM.

2. **THE COMMISSIONER OF COMMERCIAL TAXES,**
   THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 8652 OF 2007-E

JUDGMENT

The petitioner is a registered dealer under the K.G.S.T. Act. It is facing penalty proceedings. It has been served with Exts.P2 and P3 notices under Section 45A of the K.G.S.T. Act, proposing to impose penalty on it in relation to the transactions for the years 2002-03 and 2003-04. The petitioner has filed its reply. It has also filed Exts.P6 and P7 applications, to make available two persons for its cross-examination. Apprehending that the petitioner will not be given a fair opportunity to present its case, including a chance to cross-examine the persons whose statements are relied on by the competent authority, this Writ Petition is filed.

2. Heard the learned Government Pleader for the respondents also. Normally, before imposing penalty, the petitioner should be given a reasonable opportunity to defend itself. The said right includes the right to know the case of the other side and also the right to present its case effectively. In appropriate cases, it may include the right to cross-examine the persons whose statements are relied by the authorities. I am sure, the respondents will grant a reasonable opportunity to defend itself. If any

order is passed in violation of the principles of natural justice or illegally, the petitioner can work out its remedies. Subject to the above observations, the Writ Petition is closed.

14th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/